

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

UNITED STATES SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-against-

ORDER
10-CV-310(SJF)(WDW)

EAST DELTA RESOURCES CORP., et al,

Defendants.

X

FEUERSTEIN, J.

On January 26, 2010, the United States Securities and Exchange Commission ("Plaintiff") initiated this action against defendants East Delta Resources Corp., David Amsel, Mayer Amsel, and Victor Sun, alleging violations of the federal securities laws. On May 10, 2010, defendant Mayer Amsel filed an answer and counterclaims. On May 26, 2010, Plaintiff moved to strike Mayer Amsel's counterclaim as prohibited by Section 21(g) of the Securities Exchange Act of 1924. Pursuant to a Referral dated May 27, 2010, a Report and Recommendation (the "Report") of United States Magistrate William D. Wall, dated June 4, 2010, recommended that Plaintiff's motion be granted. No objections have been filed to the Report. For the reasons stated herein, the Report is accepted in its entirety.

I. Discussion

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct


proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), affd, 125 F. App'x. 374 (2d Cir. 2005); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No objections have been filed to Magistrate Judge Wall's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts and adopts Magistrate Judge Wall's Report as an Order of the Court.

II. Conclusion

For the foregoing reasons, the Report is accepted in its entirety, and Plaintiff's motion to strike defendant Mayer Amsel's counterclaims is granted.

SO ORDERED.

A handwritten signature in dark ink, appearing to read 'Sandra J. Feuerstein', is written over a horizontal line.

SANDRA J. FEUERSTEIN
United States District Judge

Dated: September 16, 2010
Central Islip, New York